

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSE
CHATTANOOGA DIVISION**

| | | |
|---|---|-----------------------------|
| INDUSTRIAL BOILER & MECHANICAL COMPANY, INC. |) | |
| |) | |
| |) | |
| Plaintiff |) | Case No.: 1:08CV 180 |
| v. |) | |
| |) | CLC/WBC |
| BRIDGEFIELD CASUALTY INSURANCE |) | |
| COMPANY, SUMMIT CONSULTING, INC. |) | |
| and BROCK INSURANCE AGENCY, INC. |) | |

AMENDED COMPLAINT

The Plaintiff, Industrial Boiler & Mechanical Company, Inc., by and through counsel, and pursuant to *Federal Rule of Civil Procedure 15* files this Amended Complaint. Plaintiff incorporates paragraphs 1 through 79 of the original complaint with the exception of paragraphs 12, 14 and 47 which will be replaced with the following:

“12. Defendant Brock Insurance Agency pursuant to T.C.A. Section 56-6-115 acted as an agent for and on behalf of Defendant Bridgefield Casualty Insurance Company to solicit and sell a workers compensation insurance policy to Plaintiff Industrial Boiler & Mechanical, Inc. in both Tennessee and Georgia.”

“14. On or about January 5, 2006, Industrial Boiler filed a written application for workers compensation insurance through Defendant Bridgefield Casualty Insurance Company’s agent, Brock Insurance Agency.”

“47(a). Bridgefield Insurance breached the contract and insurance policy issued to Industrial Boiler when Bridgefield Insurance refused to defend the workers compensation claim filed by Marc Beck in Georgia.”

“47(b). Bridgefield Insurance breached the contract and insurance policy issued to Industrial Boiler when Bridgefield Insurance refused to defend the workers compensation claim filed by Marc Beck in Tennessee.”

“47(c). Bridgefield Insurance breached the contract and insurance policy issued to Industrial Boiler by representing to plaintiff that it would provide a legal defense to Marc Beck’s claim in Tennessee then secretly having legal counsel represent only Bridgefield’s interests. Attached as Exhibit A to this Amended Complaint is the letter dated April 1, 2008, whereby Bridgefield’s agent, Allen, Kopet & Associates, PLLC, represented that Plaintiff’s legal interest would be represented. Bridgefield through its agent, Allen, Kopet & Associates, PLLC, then failed to enter an appearance before the Tennessee Department of Labor on behalf of Plaintiff. Unbeknownst to plaintiff, Bridgefield directed Allen, Kopet & Associates, PLLC to only represent Bridgefield’s interest in defending Marc Beck’s claim before the Tennessee Department of Labor. Bridgefield’s agent, Allen, Kopet & Associates, PLLC then made legal representations and argument against the interest of plaintiff. To this day, Bridgefield has yet to provide a legal defense for plaintiff to Marc Beck’s claim filed in Tennessee.”

Amended Prayer for Relief:

9. For a judgment declaring that Bridgefield Insurance should provide insurance coverage for workers compensation claims filed in Tennessee against Plaintiff, including but not limited to the claim filed by Marc Beck.

Respectfully submitted,

SAMPLES, JENNINGS, RAY & CLEM, PLLC

By: s/J. CHRISTOPHER CLEM

HOYT O. SAMPLES, TN BPR# 6765

J. CHRISTOPHER CLEM, TN BPR # 015793

Attorneys for Plaintiff

130 Jordan Drive

Chattanooga, TN 37421

(423) 892-2006

Fax: (423) 892-1919

hsamples@sampleslaw.com

cclem@sampleslaw.com

CERTIFICATE OF SERVICE

This is to certify that I have this day served the following named persons with a true and exact copy of this Amended Complaint via the ECM filing system:

Alexander T. Galloway, III: atg@mijs.com

Nick J. Peterson: njpeterson@mijs.com

Moore, Ingram, Johnson & Steele, LLP

192 Anderson Street

Marietta, GA 30060

Barry Howard

bhoward@howardtatelaw.com

150 Second Avenue, North, Suite 201

Nashville, TN 37201-1934

This the 5th day of January, 2009.

SAMPLES, JENNINGS, RAY & CLEM, PLLC

By: s/J. CHRISTOPHER CLEM